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December 10, 1997

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Ms. Salas:

Transmitted herewith, on behalf of ENMR Telephone Cooperative, Inc., are an original and four copies of a Petition for Limited Waiver of the January 1 deadline for converting local exchange carrier switches to 4-digit Feature Group D carrier identification code functionality. The attached Declaration of Tom Phelps bears a facsimile signature. The original signed Declaration will be filed with the Commission upon receipt by counsel.

Should the Commission have any questions with respect to the Petition, please communicate directly with the undersigned.

Very truly yours,

Michael R. Bennet

Michael R. Bennet

Enclosure

cc: Kris Monteith
Elizabeth Nightingale

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FEDERAL COMMUNICATIONS COMMISSION

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Administration of the) CC Docket No. 92-237
North American Numbering Plan)
Carrier Identification Codes (CICs))

To: Common Carrier Bureau

PETITION FOR LIMITED WAIVER

ENMR Telephone Cooperative, Inc. ("ENMR" or "Petitioner"), by its counsel and pursuant to Section 1.3 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"),¹ hereby requests a limited waiver of the January 1, 1998 deadline for the conversion to four digit Feature Group D Carrier Identification Codes ("CIC") established in the above-captioned proceeding. Petitioner requests additional time until June 30, 1998 to comply with the requirement that a carrier have four digit CIC capability.

ENMR is a small rural local exchange carrier, located in Clovis, New Mexico, which became an equal access provider in 1994. Currently, ENMR is in the final stage of upgrading its 25 exchanges to handle four digit CIC functionality. However, ENMR cannot convert all of its exchanges prior to the January 1, 1998 deadline due to technical and economic obstacles that are explained herein. Accordingly, ENMR submits that a grant of this limited waiver will serve the public interest and requests an extension of time to finish its implementation of four digit CIC functionality.

¹ 47 C.F.R. § 1.3 (1996).

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Background and Facts

In February of 1996, ENMR, working with Hicks & Ragland Engineering and Nortel, Inc. ("Nortel"), began its network modernization plan to upgrade its Nortel DMS-10 switches to a Nortel DMS-100 host and remote switch network configuration. Prior to the start of this engineering project, ENMR had concluded that it made economic sense to install a DMS-100 switch rather than upgrading 25 stand-alone exchanges in its 12,000 access line network. In addition, the new DMS-100 would be able to manage future FCC network requirements and offer advanced features to subscribers in ENMR's territory.

ENMR was aware of the need to migrate to four digit CIC capability and anticipated being in compliance well in advance of the original deadline of the year 2000.² The DMS-100 switch was installed and ENMR began working on the remotes. The FCC released the *Second Report and Order* on April 11, 1997 which shortened the anticipated deadline from 2000 to January 1998.³ As a result of the new deadline, ENMR accelerated its network upgrade schedule and has been able to convert two of its 25 exchanges already and plans to convert eight more exchanges by the end of December 1997, for a total of ten remotes capable of handling the four digit CICs. ENMR, in consultation with Nortel and Hicks & Ragland, anticipates that the remaining 15 exchanges cannot all be converted until the end of June 1998.

² In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs), Petition for Rulemaking of VarTec Telecom, Inc., Second Report and Order, CC Docket No. 92-237, FCC 97-125, released April 11, 1997 ("*Second Report and Order*").

³ *Second Report and Order* at ¶ 4.

Good Cause Exists for a Grant of ENMR's Request for Waiver

Good cause exists for the requested waiver. "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest."⁴ Application of the January 1 deadline to ENMR would be extremely inequitable and inconsistent with the public interest. ENMR has been diligent in its efforts to comply with the conversion deadline. ENMR requests a limited waiver of the January 1, 1998 deadline to transition to four digit CIC functionality so that it has the time to install the remaining 15 remotes and install the necessary Nortel hardware and software upgrades to handle four digit CICs. ENMR has demonstrated a good faith effort to comply with the Commission's upgrade requirements as evidenced by its February 1996 initiation of its network modernization plan. The only alternative to ENMR's host and remote plan would have been an upgrade of its 25 stand alone DMS-10 switches from operating system software version 403.31 to version 406.22. Not only would this option have cost more than the DMS-100 solution, it would have been only a stop-gap solution, not to mention an extremely inefficient network design. The host and remote upgrade makes technical and economic sense.

In its December 3, 1997 order granting a limited waiver of the January 1 four-digit CIC capability deadline for a group of rural telephone companies, the Commission recognized the technical and economic burden placed on small and rural local exchange carriers by the

⁴ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *see also Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

January 1 deadline.⁵ In the *CIC Waiver Order* the Commission concluded that a small rural telephone company which had initiated the upgrade process in connection with its conversion to four-digit CIC capability in early 1997 demonstrated sufficient diligence to satisfy the standard for a waiver. ENMR, which began its upgrade in early 1996, clearly meets this standard. The Commission also concluded that for rural telephone companies, “the impact of an extension of the conversion deadline on the IXCs served by [those companies], and on the ability of those LECs’ customers to reach IXCs through CAC dialing, does not outweigh the burden on the LECs that would be imposed by a denial of their petitions for waiver.”⁶ Given the diligence shown by ENMR, the unavailability of equipment and installations necessary to meet the January 1 conversion deadline for all of its exchanges, and the burden that would be imposed on ENMR if a waiver is not granted, grant of the instant request is consistent with the public interest.

In light of these specific facts and circumstances, ENMR submits that good cause exists for a limited waiver of the January 1, 1998 deadline until June 30, 1998 for conversion of the remaining 15 out of 25 exchanges to four digit CIC functionality. ENMR has made every reasonable effort to meet the Commission’s deadlines using the most technically efficient and

⁵ *Clarks Telecommunications Co., et al.; Petitions for Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule, Order*, NSD File Nos. 97-53; 97-56; 97-46; 97-51; 97-54; 97-55; 97-47; 97-48; 97-49; 97-50, DA 97-2528, released December 3, 1997 (“*CIC Waiver Order*”).

⁶ *CIC Waiver Order* at ¶ 18.

economically rational solutions. Waiving the requirement that ENMR meet the January 1, 1998 CIC compliance deadline will benefit the public interest, allowing ENMR to continue its efficient network modernization plan.

Respectfully submitted,

ENMR Telephone Cooperative, Inc.

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December 10, 1997

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Certificate of Service

I, Jacqueline Jenkins, an employee in the law firm of Bennet & Bennet, PLLC, hereby certify that a copy of the foregoing Petition for Limited Waiver, has been served via hand delivery, this 10th day of December, 1997, on the following:

A. Richard Metzger, Chief
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Federal Communications Commission
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